

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION [LODGING] NO. 2462 OF 2004

ESPN Star Sports Petitioner

VERSUS

Union of India & Ors.
Respondents

Mr. Iqbal Chagla, Senior Counsel, with Mr. Aspi Chinoy, Senior Counsel, with Mr. D.J. Khambatta instructed by M/s. AZB & Partners, for the Petitioner

Mr. Rajiv Chavan with Mr. Y.R. Mishra for Respondent No. 1.

Mr. K.K. Venugopal, Senior Counsel, with Mr. U.N. Banerjee, Senior Counsel, Miss R. Rangswami and Mr. D.D. Madon instructed by M/s. Mulla & Mulla & Craigie Blunt & Caroe for Respondent No. 2.

Mr. Harish Salve, Senior Counsel, with Mr. R.A. Dada, Senior Counsel, Mr. Janak Dwarkadas, Senior Counsel, Mr. Virag Tulzapurkar, Mr. Prakash Shah, Mr. Maninder Singh, Mr. Anil Agarwal, Ms. Meenakshi Grover, Mr. Sajit Suvarna and Mr. Kiran Desai instructed by Mr. Mustafa Motiwala for Respondent No.3.

WITH

NOTICE OF MOTION NO. 517 OF 2004

1. ESPN Star Sports Petitioner

VERSUS

Union of India & Ors.
Respondents

AND

Consumer Action Network (CAN) ..Applicant/
Intervenor

Mr. Ahmed Abdi instructed by M/s. Abdi & Co. for the Applicant /
Intervenor – in support

Mr. Iqbal Chagla, Senior Counsel, with Mr. Aspi Chinoy, Senior
Counsel, with Mr. D.J. Khambatta instructed by M/s. AZB & Partners,
for the Petitioner – to show cause

Mr. Rajiv Chavan with Mr. Y.R. Mishra for Respondent No. 1 - to show
cause

Mr. K.K. Venugopal, Senior Counsel, with Mr. U.N. Banerjee, Senior
Counsel, Miss R. Rangswami and Mr. D.D. Madon instructed by
M/s. Mulla & Mulla & Craigie Blunt & Caroe for Respondent No. 2 – to

show cause.

Mr. Harish Salve, Senior Counsel, with Mr. R.A. Dada, Senior Counsel, Mr. Janak Dwarkadas, Senior Counsel, Mr. Virag Tulzapurkar, Mr. Prakash Shah, Mr. Maninder Singh, Mr. Anil Agarwal, Ms. Meenakshi Grover, Mr. Sajit Suvarna and Mr. Kiran Desai instructed by Mr. Mustafa Motiwala for Respondent No.3 – to show cause

WITH

NOTICE OF MOTION NO. 520 OF 2004

2. ESPN Star Sports Petitioner

VERSUS

Union of India & Ors.
Respondents

AND

Shri Adhikari Brothers Television Network Ltd. ...Applicant/
Intervenor

Mr. Ram Jethmalani, Senior Counsel, instructed by

Mr. R.D. Suvarna for the Applicant / Intervenor – in support

Mr. Iqbal Chagla, Senior Counsel, with Mr. Aspi Chinoy, Senior

Counsel, with Mr. D.J. Khambatta instructed by M/s. AZB & Partners,
for the Petitioner – to show cause

Mr. Rajiv Chavan with Mr. Y.R. Mishra for Respondent No. 1
– to show cause

Mr. K.K. Venugopal, Senior Counsel, with Mr. U.N. Banerjee, Senior
Counsel, Miss R. Rangswami and Mr. D.D. Madon instructed by
M/s. Mulla & Mulla & Craigie Blunt & Caroe for Respondent No. 2 –
to show cause.

Mr. Harish Salve, Senior Counsel, with Mr. R.A. Dada, Senior
Counsel, Mr. Janak Dwarkadas, Senior Counsel, Mr. Virag
Tulzapurkar, Mr. Prakash Shah, Mr. Maninder Singh, Mr. Anil
Agarwal, Ms. Meenakshi Grover, Mr. Sajit Suvarna and Mr. Kiran
Desai instructed by Mr. Mustafa Motiwala for Respondent No.3 – to
show cause

WITH

CHAMBER SUMMONS NO. 238 OF 2004

3. ESPN Star Sports Petitioner

VERSUS

Union of India & Ors.

Respondents

AND

Consumer Action Network (CAN)

..Applicant/
Intervenor

Mr. Ahmed Abdi instructed by M/s. Abdi & Co. for the Applicant /

Intervenor – in support

Mr. Iqbal Chagla, Senior Counsel, with Mr. Aspi Chinoy, Senior

Counsel, with Mr. D.J. Khambatta instructed by M/s. AZB & Partners,
for the Petitioner – to show cause

Mr. Rajiv Chavan with Mr. Y.R. Mishra for Respondent No. 1 – to
show cause

Mr. K.K. Venugopal, Senior Counsel, with Mr. U.N. Banerjee, Senior
Counsel, Miss R. Rangswami and Mr. D.D. Madon instructed by
M/s. Mulla & Mulla & Craigie Blunt & Caroe for Respondent No. 2 –
to show cause.

Mr. Harish Salve, Senior Counsel, with Mr. R.A. Dada, Senior
Counsel, Mr. Janak Dwarkadas, Senior Counsel, Mr. Virag
Tulzapurkar, Mr. Prakash Shah, Mr. Maninder Singh, Mr. Anil
Agarwal, Ms. Meenakshi Grover, Mr. Sajit Suvarna and Mr. Kiran
Desai instructed by Mr. Mustafa Motiwala for Respondent No.3 – to
show cause.

**CORAM: DALVEER BHANDARI, C.J., &
DR. D.Y. CHANDRACHUD, J.**

DATE: SEPTEMBER 21, 2004.

P.C.:-

1. Mr. K.K. Venugopal, learned Senior Counsel appearing for the Board of Control for Cricket in India (for short, 'BCCI'), on instructions, submits that the BCCI does not have any concluded contract with Zee Telefilms Ltd., respondent No. 3 herein, especially in view of the fact that Zee Telefilms Ltd., by letter dated 11th September, 2004, has not accepted the draft Letter of Intent sent to them by the BCCI on 8th September, 2004. Mr. Venugopal further submits that cricket series with Australia is scheduled to commence from 6th October, 2004 and at least 15 to 20 days are normally required to assemble the production unit and book the advertisements. Mr. Venugopal submits that in this view of the matter, in pursuance of the power which is vested with BCCI under clause 5.4(c) and (d) of the Invitation to Tender , which read as under:-

“(c) to reject all or any Tenders, and not to assign any reason for the same, and

(d) to cancel the entire tendering process without assigning any reason, provided, however, in the event of cancellation, the tender security shall be refunded without interest within 30 days from the date of such cancellation”

the BCCI has decided to cancel the entire tender process, and to produce on their own or otherwise. Mr. Venugopal states that the amount (US \$ 20 million) which has been received would be refunded to respondent No. 3 forthwith. Learned counsel states that BCCI has taken the aforesaid decision in the public interest so as to ensure that the ensuing cricket series with Australia proceeds unimpeded and in the best interest of the sport.

2. In view of the aforementioned statement of Mr. Venugopal, the learned senior counsel appearing for the petitioner Mr. Iqbal Chagla withdraws the Writ Petition.

3. Mr. Dada, learned senior counsel appearing for respondent No.3,

states that there is a concluded contract between the parties, there is no power to cancel it after the tender is accepted, the BCCI accepted US \$ 20 million and Zee Telefilms Ltd. has made preparations to carry on the contract, as is evident from the letter of 14th September, 2004.

4. This petition has been filed on behalf of ESPN Star Sports. Since the petitioner has stated through its counsel that the petition is not pressed in view of the statement made on behalf of BCCI, it is not necessary in these proceedings to decide the submissions which have been made by Mr. Dada, learned senior counsel appearing for respondent No. 3.

5. This Writ Petition is dismissed as withdrawn.

6. Consequently, the interim order granted by this Court stands vacated.

7. In view of the disposal of the Writ Petition, the Notices of Motion and Chamber Summons do not survive and the same stand disposed of accordingly.

CHIEF JUSTICE

DR.D.Y.CHANDRACHUD, J.